

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 589

Short Title: Protect Whistleblower LEOs from Retaliation. (Public)

Sponsors: Representatives Zenger, Hardister, K. Brown, and Cotham (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 3, if favorable, Rules, Calendar, and Operations of the House

April 10, 2023

1 A BILL TO BE ENTITLED
2 AN ACT PROTECTING FROM RETALIATION LAW ENFORCEMENT OFFICERS THAT
3 REPORT THE USE OF EXCESSIVE FORCE OR OTHER IMPROPER OR UNLAWFUL
4 ACTIVITY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 15A-401 reads as rewritten:

7 "**§ 15A-401. Arrest by law-enforcement officer.**

8 ...

9 (d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer,
10 while in the line of duty, who observes another law enforcement officer use force against another
11 person that the observing officer reasonably believes exceeds the amount of force authorized by
12 subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall, if
13 it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the
14 observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter,
15 report what the officer reasonably believes to be an unauthorized use of force to a superior law
16 enforcement officer within the agency of the observing officer, even if the observing officer did
17 not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the
18 observing officer was involved or present during what the observing officer reasonably believes
19 to be unauthorized use of force, the observing officer shall make the report to the highest ranking
20 law enforcement officer of that officer's agency who was not involved in or present during the
21 use of force.

22 Making a knowingly false report under this subsection shall be a Class 2 misdemeanor.

23 (d2) Protection from Retaliation. – The observing officer reporting an alleged
24 unauthorized use of force pursuant to subsection (d1) of this section shall not be terminated,
25 disciplined, or otherwise retaliated against for making that report, provided that nothing in this
26 subsection shall prohibit councils, supervisors, department heads, or other appropriate authorities
27 from taking disciplinary action against the observing officer for conduct that occurred prior to
28 making the report.

29"

30 **SECTION 2.(a)** Article 1 of Chapter 17C of the General Statutes is amended by
31 adding a new section to read:

32 "**§ 17C-17. Duty to intervene and report certain conduct; protection from retaliation.**

33 (a) A criminal justice officer, while in the line of duty, that observes any of the following
34 conduct and possesses a reasonable opportunity to intervene shall, if it is safe to do so, attempt
35 to intervene to prevent the continuation of the conduct:



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- (1) Violations of federal, State, city, or county laws, ordinances, or regulations.
- (2) Fraud.
- (3) Misappropriation of State, city, or county resources.
- (4) Activity that poses a substantial danger to public health and safety.
- (5) Gross mismanagement, including the gross waste of public monies or the gross abuse of authority.

(b) A criminal justice officer that observes conduct the criminal justice officer reasonably believes to be conduct specified in subdivisions (1) through (5) of subsection (a) of this section shall, within a reasonable period of time not to exceed 72 hours after the conduct occurred, report the conduct to an immediate supervisor, department head, or appropriate authority, even if the criminal justice officer did not have a reasonable opportunity to intervene. If the immediate supervisor, department head, or appropriate authority was involved in or present during the observed conduct, the criminal justice officer shall make the report to the highest ranking supervisor, department head, or appropriate authority of the criminal justice officer's agency that was not involved in or present during the conduct.

(c) A criminal justice officer that makes a report pursuant to subsection (b) of this section shall not be terminated, disciplined, or otherwise retaliated against for making that report.

(d) Nothing in this section shall prohibit agencies, supervisors, department heads, or appropriate authorities from taking disciplinary action against a criminal justice officer for any violation, fraud, misappropriation, gross mismanagement, or other activity specified in subdivisions (1) through (5) of subsection (a) of this section that occurred prior to the criminal justice officer making a report under subsection (b) of this section.

(e) Making a knowingly false report under this section shall be a Class 2 misdemeanor."

SECTION 2.(b) Article 2 of Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-17. Duty to intervene and report certain conduct; protection from retaliation.

(a) A justice officer, while in the line of duty, that observes any of the following conduct and possesses a reasonable opportunity to intervene shall, if it is safe to do so, attempt to intervene to prevent the continuation of the conduct:

- (1) Violations of federal, State, city, or county laws, ordinances, or regulations.
- (2) Fraud.
- (3) Misappropriation of State, city, or county resources.
- (4) Activity that poses a substantial danger to public health and safety.
- (5) Gross mismanagement, including the gross waste of public monies or the gross abuse of authority.

(b) A justice officer that observes conduct the justice officer reasonably believes to be conduct specified in subdivisions (1) through (5) of subsection (a) of this section shall, within a reasonable period of time not to exceed 72 hours after the conduct occurred, report the conduct to an immediate supervisor, department head, or appropriate authority, even if the justice officer did not have a reasonable opportunity to intervene. If the immediate supervisor, department head, or appropriate authority was involved in or present during the observed conduct, the justice officer shall make the report to the highest ranking supervisor, department head, or appropriate authority of the justice officer's agency that was not involved in or present during the conduct.

(c) A justice officer that makes a report pursuant to subsection (b) of this section shall not be terminated, disciplined, or otherwise retaliated against for making that report.

(d) Nothing in this section shall prohibit agencies, supervisors, department heads, or appropriate authorities from taking disciplinary action against a justice officer for any violation, fraud, misappropriation, gross mismanagement, or other activity specified in subdivisions (1) through (5) of subsection (a) of this section that occurred prior to the justice officer making a report under subsection (b) of this section.

(e) Making a knowingly false report under this section shall be a Class 2 misdemeanor."

1 **SECTION 3.** This act becomes effective December 1, 2023, and applies to offenses
2 committed and retaliatory actions taken on or after that date.